

### REMARKS/ARGUMENTS

Claims 11, 12, 13, 16-18, 20 and 44-46 are pending in this Patent Application.

In accordance with the Final Office Action, Claims 11, 13, 16-18, 20, 44 and 45 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,323,067 ("Shay").

Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Shay in view of U.S. Patent No. 5,809,584 ("Ansel et al."). Claim 46 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Shay in view of U.S. Patent No. 6,288,584 ("Wu et al.").

For numerous reasons, including but not limited to those articulated below, Applicant respectfully submits that the rejection of Claims 11-13, 16-18, 20 and 44-46 is erroneous. Reconsideration is requested.

Applicant's independent Claim 11 is directed to an integrated circuit that comprises an activation circuit, a pulse generator, and a feedback path to provide an output pulse of the pulse generator to the activation circuit. More particularly, the pulse generator is recited in Claim 11 to generate output pulses to indicate that a supply voltage is ramping up and to terminate the generation of the pulses after the supply voltage reaches a predetermined level. In one embodiment, illustrated in Applicant's FIG. 3c, the output pulses of the pulse generator assume a positive value as the supply voltage increases and subsequently returns to an initial level after the supply voltage has reached a predetermined level. Shay fails to disclose a pulse generator that operates in a manner defined in Applicant's Claim 11.

In rejecting Applicant's Claim 11, the Final Office Action relies on transistors 68, 70, 72 and 74, illustrated in Shay's

FIG. 1. The operation of those transistors is described in Shay's Detailed Description at col. 4, line 16 through col. 5, line 33. The Final Office Action asserts that the above-referenced portion of Shay discloses a pulse generator that to generate pulses to indicate that a power supply is ramping up, and to terminate the generation of pulses after the supply has voltage reaches a predetermined level. Analysis and assessment of Shay compels the conclusion that the Final Office Action seriously misapprehends the subject matter disclosed by Shay and that Shay badly fails to provided a sustainable basis for rejection of Applicant's Claim 11 under 35 U.S.C. § 102(b).

Specifically, a rejection of a claim under 35 U.S.C. §102(b) requires that a prior art reference disclose expressly or inherently every limitation contained in the claim. *Rowe v. Dror*, 42 U.S.P.Q.2d 1550 (Fed. Cir. 1997). If any claimed element is absent from the reference, there is no anticipation. *Id.* A prior art reference must disclose each claimed element clearly enough to prove its existence in the prior art. *Motorola, Inc. v. Inter-digital Tech. Corp.*, 43 U.S.P.Q.2d (Fed. Cir. 1997).

It is not enough, however, that the prior art references disclose all the claimed elements in isolation. Rather, as stated by the Federal Circuit, "[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 U.S.P.Q. 481, 485 (Fed. Cir. 1984). The Federal Circuit has indicated that "[i]n deciding the issue of anticipation, the trier of fact must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify corresponding elements disclosed in the allegedly anticipating

reference." *Id.* The anticipation determination is to be viewed from the perspective of one having ordinary skill in the art. There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Research Found. v. Genentech Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991).

In determining whether a claim is anticipated by the prior art, the claims must first be construed. Claims must be construed to give them the same meaning for purposes of both an infringement analysis and a validity analysis. *Kegel Co., Inc v AMF Bowling, Inc.*, 127 F.3d 1420, 1429, 44 U.S.P.Q.2d 1123 (Fed. Cir. 1997). If claims are misconstrued, a finding of anticipation will be reversed unless the error was harmless. *Gechter v. Davidson*, 43 U.S.P.Q.2d 1030 (Fed. Cir. 1997).

During patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." *In re Hyatt*, 54 U.S.P.Q.2d 1664, 1667 (Fed. Cir. 2000). (Emphasis added.) Manual of Patent Examining Procedure, Eighth Edition, Revision 1 (February 2003) ("MPEP") at Section 2111.

In this regard, there is no suggestion in Shay that the group of transistors relied on in the Final Office Action operate as a pulse generator in the manner required by Applicant's Claim 1. Shay itself refers to these devices as constituents of a latch 18. Shay also indicates that transistors 68, 70, 72, and 74 form an inverter. See Shay at Col. 3, lines 56-68. It may not be plausibly maintained that a skilled practitioner would equate Shay's latch or inverter to Applicant's pulse generator. Accordingly, Shay, by its own terms, clearly suggests to the skilled practitioner a structure and an associated function that are markedly dissimilar to what

is commonly understood to be a pulse generator, much less a pulse generator that operates in the specific manner defined in Applicant's Claim 11.

Furthermore, it is unambiguously apparent from Shay that the voltage at Shay's node 38, which is relied on the Final Office Action to anticipate the pulse waveform illustrated in Applicant's FIG. 3c, bears no resemblance to the output of Applicant's recited pulse generator. Shay's V38 goes positive when the supply voltage surpasses a predetermined threshold. Rather than returning to its initial value after a time interval, V38 remains high. In fact, due to the operation of latching transistor 76, V38 remains high, even in the face of transient negative excursions in the supply voltage. Applicant's gravamen here is that no reasonable, objective construction of Shay yields a pulse generator as recited in Applicant's Claim 11.

Moreover, the Final Office action fails to provide any edification that might assist Applicant, or any other interested party, to assess the manner in which Shay might be deemed to disclose, or suggest, a pulse generator that provides output pulses that indicate a supply voltage is ramping up and that terminate the pulses when the supply voltage has reached a predetermined value.

In this regard, the Final Office Action fails to explain the manner in which Shay may be seen to disclose a pulse generator that operates in the manner recited in Applicant's Claim 11. Conclusory statements, unaccompanied by any reasoning that supports the conclusion of unpatentability, do not satisfy statutory requirements imposed by well settled patent law. *In re Lee*, 61 U.S.P.Q.2d 1430m 1435 (Fed. Cir. 2001).

Accordingly, Applicant respectfully maintains that Claim 11 is patentable over Shay under 35 U.S.C. § 102(b).

Reconsideration of the rejection of Claim 11 is hereby requested.

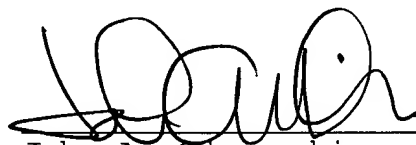
Claims 12, 13, 16-18, 20 and 44-46 are dependent (directly or indirectly) from Claim 11 and are, for at least this reason, patentable over the cited art.

CONCLUSION

The Final Office action is erroneous in rejecting Applicant's independent Claim 11, for at least the reason that Shay fails to disclose a pulse generator that generates an output pulse as a supply voltage is ramping up and terminates the pulse after the supply voltage attains a predetermined value. Consequently, Claim 11, as well as Claims 12, 13, 16-18, 20 and 44-46, all dependent from Claim 11, are patentable over the cited art.

In view of these Remarks, this Patent Application is now in condition for allowance, and the Examiner's prompt action in accordance therewith is respectfully requested. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 20-1504.

Respectfully submitted,



Date: December 16, 2003

John A. Odozynski  
Registration No. 28,769  
TROP, PRUNER & HU, P.C.  
8554 Katy Freeway, Suite 100  
Houston, Texas 77024-1805  
(512) 418-9944 [Phone]  
(713) 468-8883 [Fax]



21906

PATENT TRADEMARK OFFICE